

CWP (T) No. 13075 of 2008.

10.12.2009 Present: Mr. M.L.Sharma Advocate, for the petitioner.

Mr. R.K.Sharma, Sr. Addl.AG with Mr. R.P.Singh
Asstt.AG for the respondents.

The learned counsel for the petitioner has confined his claim in the petition for Work Charged Status to the petitioner on completion of his 10 years service with the respondents even though in the petition prayer for regularization has been made. The learned counsel for the petitioner has submitted that petitioner was engaged as daily wage Chowkidar by respondent No. 2 in march, 1985. The petitioner was disengaged on 1.4.1989. The State Government made a reference to the Labour Court regarding disengagement of the petitioner and on 28.4.2004 Labour Court answered the reference in favour of the petitioner and petitioner was held entitled to be reinstated in service with continuity in service but without back wages. The petitioner thereafter joined on 2.9.2004. The petitioner is still serving the respondents but he has not been given Work Charge Status despite representation dated 20.12.2004. The learned counsel for the petitioner has submitted that petitioner is entitled to Work Charged Status on completion of 10 years continuous service with 240 days in each calendar year. The learned counsel for the petitioner for this purpose has relied 1994 (Supp) 2 SCC 316 Mool Raj Upadhayaya and Others Versus State of Himachal Pradesh and Others.

2. The respondents have filed reply. They have admitted that reference No. 173 of 1999 made by the Government of Himachal

Pradesh was decided on 28.4.2004 reinstating the petitioner in service with continuity and seniority but without back wages. The contention of the petitioner that he has completed more than 10 years of continuous service with 240 days in each calendar year has not been denied by the learned Senior Additional Advocate General appearing on behalf of the respondents.

3. The petitioner has completed 240 days in each calendar year and therefore, he is entitled to Work Charged Status as per the directions given by the Supreme Court in Mool Raj Upadhayaya's case supra. In these circumstances, the petitioner has made out a case. The respondents are directed to consider the case of the petitioner for grant of Work Charged Status to the petitioner in accordance with Mool Raj Upadhayaya's case supra within a period of two months and if he is found eligible for Work Charged Status then necessary benefit be also given to the petitioner within the same period. The petition stands disposed of with above directions.

(Kuldip Singh)
Judge.

December 10, 2009.
(KC)